



APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 09-09-04 is improper for reason(s) indicated below:

- ☒ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

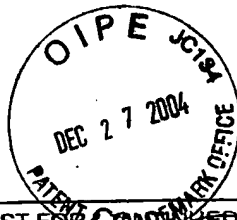
**Note:** If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

***A copy of this notice MUST be returned with any reply.***

Direct the reply and any questions about this notice to:

S. SCOTT, Examining Group 2900

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(703) 90 222 2591

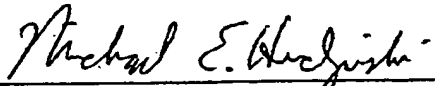


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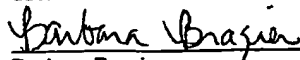
<b>REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL</b> Address to: MAIL STOP RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	<b>09/221,542</b>
	<b>Filing Date</b>	<b>December 28, 1998</b>
	<b>First Named Inventor</b>	<b>LABRIE</b>
	<b>Art Unit</b>	<b>2171</b>
	<b>Examiner</b>	<b>Te Y. Chen</b>
	<b>Attorney Docket No.</b>	<b>ST9-98-004</b>
<b>This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.</b>		
<p>1. Submission required under 37 CFR 1.114</p> <p>a. <input checked="" type="checkbox"/> Previously submitted: <b>Amendment After Final Rejection</b> filed on July 29, 2004.</p> <p>If a final Office Action is outstanding, any amendments filed after the final Office Action may be considered as a submission even if this box is not checked.</p> <p>i. <input type="checkbox"/> Consider the arguments in the Appeal Brief or Reply Brief filed on</p> <p>ii. <input type="checkbox"/> Other:</p> <p>b. <input type="checkbox"/> Enclosed</p> <p>i. <input type="checkbox"/> Amendment/Reply</p> <p>ii. <input type="checkbox"/> Affidavit(s)/Declaration(s)</p> <p>iii. <input type="checkbox"/> Information Disclosure Statement (IDS)</p> <p>iv. <input type="checkbox"/> Other _____</p> <p>2. Miscellaneous</p> <p>a. <input type="checkbox"/> Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)</p> <p>b. <input checked="" type="checkbox"/> Applicant(s) hereby petition the Commissioner under 37 C.F.R. § 1.136(a) and request a <b>Two-month extension of time</b> to respond to the outstanding Office Action.</p> <p>c. <input type="checkbox"/> Other _____</p> <p>3. Fees (The RCE fee under 37 CFR 1.114(e) is required by 37 CFR 1.114 when the RCE is filed.)</p> <p>a. <input checked="" type="checkbox"/> The Director is hereby authorized to charge the following fees, or credit any overpayments to Deposit Account No. <b>09-0460</b>.</p> <p>i. <input checked="" type="checkbox"/> RCE fee required under 37 CFR 1.17(e)</p> <p>ii. <input checked="" type="checkbox"/> Extension of time fee (37 CFR 1.136 and 1.17)</p> <p>iii. <input type="checkbox"/> Other _____</p> <p>b. <input type="checkbox"/> Check in the amount of \$770.00 (large entity) enclosed.</p> <p>c. <input type="checkbox"/> Check in the amount of \$ _____ (large entity) to cover the applicable extension of time fees.</p>		

Respectfully submitted,

9/13/2004 RNDWDF1 00000031 090460 09221542  
11 FC:1801 770.00 DAFAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLPSeptember 9, 2004  
Date  
Michael E. Hudzinski, Reg. No. 34,185  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2518  
216/861-5582

"Express Mail". Mailing Label Number: EV 471020931 US - Date of Deposit: September 9, 2004

I hereby certify that this **RCE Transmittal** and accompanying documents are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: MAIL STOP RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated above.

  
Barbara Brazier  
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